IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/04/2004

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE T.V.MASILAMANI

A.S.No.655 of 1996
and
Cross Objection No.54 of 1998

The Special Tahsildar
Adi Dravidar Welfare
Paramakudi ... Appellant in A.S.655/96
and respondent in Cross
Objection No.54/1998

-Vs-

Ayesa Beevi ... Respondent in A.S.655
and Cross Objector in
Cross Obj.No.54/1998

Prayer: Appeal and Cross Objection against the judgment and decree 30 .9.1994 on the file of the Subordinate Judge, Ramanathapuram.

!For Appellant in A.S.655/96
and respondent in Cross
Objection No.54/1998 : Mr.V.Karthikeyan
Government Advocate

^For Respondent in A.S.No.655
of 1996 and Cross Objector
in Cross Obj.No.54/1998 : Mr.S.Kasirajan

:J U D G M E N T

(Judgment of the Court was delivered by P.D.DINAKARAN, J.)

The above appeal and cross objection are directed against the decree and judgment dated 30.9.1994 made in L.A.O.P.No.6 of 1993 on the file of the learned Subordinate Judge, Ramanathapuram, enhancing the quantum of compensation from Rs.30/- per cent to a sum of Rs.600/- per cent for the dry land of an extent of 0.83.0 hectares located in S.No.206/1A1A in village No.1,

Kallukudi village, Paramakudi taluk, Ramanathapuram District acquired for the purpose of providing house sites to adidravidars, pursuant to the notification dated 22.5.1991 made under Section 4(1) of the Land Acquisition Act (hereinafter referred to as 'the Act').

2. Aggrieved by the award dated 23.3.1992 at the rate of Rs.30/- per cent, the land owners (hereinafter referred to as the claimants), made a reference under Section 18(1) of the Act claiming compensation at the rate of Rs.2,500/- per cent. The claimants placed reliance on,

Ex.A1-copy of sale deed dated 28.3.1990
Ex.A2-copy of sale deed dated 31.7.1989
Ex.A3-copy of sale deed dated 12.4.1989
Ex.A4- copy of sale deed dated 14.2.1991
Ex.A5-copy of sale deed dated 19.4.1991
Ex.A6-copy of sale deed dated 19.4.1992.

3. Per contra, the respondent/land acquisition authority, placing reliance on the award made by the land acquisition officer, which is based on the value of the adjacent lands assigned to the harijans, resisted the enhancement of compensation. Concededly, the land acquisition authority has not placed reliance on any other registered document on their part.

4.The learned Subordinate Judge, while considering the documents relied upon by the claimants, refused to place reliance on Ex.A-2, A-3 and A-4, as the same were related to the lands far away from the impugned lands. Similarly, reliance placed on Ex.A-5 and A-6, were also rejected as the said exhibits related to 480 and 375 sft. But, the learned subordinate Judge, without assigning any reason, refused to rely upon Ex.A.1, sale deed dated 28.3.1990 and awarded the compensation at Rs.600/- per cent in random. Hence the above appeal and cross objection.

5. Learned Government Pleader appearing for the Government and the learned counsel appearing for the respondent reiterated their respective claim that were agitated before the learned Subordinate Judge based on the documents referred to above.

6. We have given our careful consideration to the same. Concededly, Ex.A-1 relates to the land located in S.No.220 of Kallukudi village itself and Exs.A-2 and A-3 are related to S.No.277 of a different village viz., revenue village No.2, Melaparthibanur, which is located in the centre of the developed township. Exs.A-5 and A-6 also admittedly relates to an extent of 480 and 375 sft dated 19.4.1991 and 16.1.19 92 relating to a very small extent of land, which, in our opinion, cannot be relied upon for fixing the compensation for the impugned lands viz., an extent of 0.83.0 hectares acquired for providing house sites to adidravidars, for which purpose a minimum of 20% is liable to be deducted towards developmental charges.

7. A bare reading of the order of the learned subordinate Judge makes it clear that there is absolutely no discussion for the refusal to accept

Ex.A1, sale deed dated 28.3.1990 as the basis for fixing the compensation, though there is no dispute that the land sold under the sale deed marked as Ex.A-1 dated 28.3.1990 is located in the very same village viz., village No.1, Kallukudi, Paramakudi taluk, Ramanathapuram District, and adjacent to the impugned lands, at the rate of Rs.1,500/- per cent.

7. In that view of the matter, we do not find any reason to reject Ex.A1 for the purpose of fixing the award amount. Therefore, taking Ex.A1 as the basis, for which there cannot be any valid objection on behalf of the appellant, and deducting 20% of the value towards developmental charges, we are obliged to fix the rate of compensation at Rs.1200/- per cent for the impugned lands, because the said document Ex.A-1 was registered much earlier to the date of notification made under Section 4(1) of the Act and the reliance on the said document by the petitioner, is in our opinion, bonafide. In which event, the learned subordinate Judge has committed an error in refusing to place reliance on Ex.A1, as it is settled law that where documentary evidence are available for arriving at the market rate of the land acquired, it is improper to award the compensation in random.

8. We are, therefore, of the considered opinion that the compensation awarded by the learned Subordinate Judge at Rs.600/- per cent, in random is without any rhyme or reason, arbitrary and unreasonable. Hence, we are inclined to fix the compensation at the rate of Rs.1200/-per cent as arrived at, along with statutory benefits viz., 12% additional compensation under Section 23(1)(a) of the Land Acquisition Act from the date of Section 4(1) notification till the date of award or taking possession, whichever is earlier and 30% solatium on the same with additional interest at 9% per annum for a period of one year from the date of taking possession and thereafter 15% per annum till the date of payment.

9. The above appeal and cross objection are ordered accordingly.

Index : Yes
Internet:Yes

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To

1.The Subordinate Judge, Ramanathapuram.
2.The V.R.Section, High Court, Madras.

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